

welfare of people, property or the environment, including areas subject to landslides, cave-ins, large or encroaching sand dunes, severe wind or soil erosion, frequent flooding, avalanches and areas of unstable geology.

*Renewable resource lands* means geographic areas which contribute significantly to the long-range productivity of water supply or of food or fiber products, such lands to include aquifers and aquifer recharge areas.

*Substantial legal and financial commitments in a surface coal mining operation* means significant investments that have been made on the basis of a long-term coal contract in power plants, railroads, coal-handling, preparation, extraction or storage facilities, and other capital-intensive activities. Costs of acquiring the coal in place, or the right to mine it alone without other significant investments, as described above, are not sufficient to constitute substantial legal and financial commitments.

[48 FR 41350, Sept. 14, 1983, as amended at 52 FR 18795, May 19, 1987; 53 FR 26584, July 13, 1988]

#### **§ 762.11 Criteria for designating lands as unsuitable.**

(a) Upon petition an area shall be designated as unsuitable for all or certain types of surface coal mining operations, if the regulatory authority determines that reclamation is not technologically and economically feasible under the Act, this chapter or an approved State program.

(b) Upon petition an area may be (but is not required to be) designated as unsuitable for certain types of surface coal mining operations, if the operations will—

(1) Be incompatible with existing State or local land use plans or programs;

(2) Affect fragile or historic lands in which the operations could result in significant damage to important historic, cultural, scientific, or esthetic values or natural systems;

(3) Affect renewable resource lands in which the operations could result in a substantial loss or reduction of long-range productivity of water supply or of food or fiber products; or

(4) Affect natural hazard lands in which the operations could substantially endanger life and property, such lands to include areas subject to frequent flooding and areas of unstable geology.

#### **§ 762.12 Additional criteria.**

(a) A State regulatory authority may establish additional or more stringent criteria for determining whether lands within the State should be designated as unsuitable for coal mining operations. Such criteria shall be approved pursuant to subchapter C of this chapter.

(b) The Secretary may establish additional criteria for determining whether Federal lands should be designated as unsuitable for surface mining operations.

(c) Additional criteria will be determined to be more stringent on the basis of whether they provide for greater protection of the public health, safety and welfare or the environment, such that areas beyond those specified in the criteria of this part would be designated as unsuitable for surface coal mining operations.

#### **§ 762.13 Land exempt from designation as unsuitable for surface coal mining operations.**

The requirements of this part do not apply to—

(a) Lands on which surface coal mining operations were being conducted on the date of enactment of the Act;

(b) Lands covered by a permit issued under the Act; or

(c) Lands where substantial legal and financial commitments in surface coal mining operations were in existence prior to January 4, 1977.

#### **§ 762.14 Exploration on land designated as unsuitable for surface coal mining operations.**

Designation of any area as unsuitable for all or certain types of surface coal mining operations pursuant to section 522 of the Act and regulations of this subchapter does not prohibit coal exploration operations in the area, if conducted in accordance with the Act, this chapter, any approved State or Federal program, and other applicable requirements. Exploration operations on any